

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

FRIDAY, THE 28TH SEPTEMBER 2007 / 6TH ASWINA 1929

CRP.No. 434 of 2004(A)

CMA.18/2001 of PRINCIPAL SUB COURT,ATTINGAL
OS.194/1995 (IA. 1698 /2000) of MUNSIFF COURT,ATTINGAL
.....

REVN. PETITIONER: APPELLANT:

ACHUTHAN RAVINDRAN, S/O. ACHUTHAN,
AGED 64 YEARS, SASTHAMPADIKKAL VEEDU,
NEAR KUZHIYIL MUKKU, AVANAVANCHERY VILLAGE.

BY ADV. SRI.R.S.KALKURA

RESPONDENTS: RESPONDENTS:

1. RAJAMMA, AGED 57,
KATTILPUTHENVEEDU, THOTTAVARAM,
CHITTATTINKARA DESOM, ATTINGAL VILLAGE.
2. LINI R.S. ALIAS MOLY, AGED 53,
KATTILPUTHENVEEDU, THOTTAVARAM,
CHITTATTINKARA DESOM, ATTINGAL VILLAGE.

BY ADV. SRI.P.J.JOSEPH
SRI.GEORGE MATHEW
SRI.M.D.SASIKUMARAN
SRI.A.V.TELLES
SRI.VIJO JOSE

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 28/09/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

HARUN-UL-RASHID, J.

C.R.P.No.434 OF 2004

Dated: SEPTEMBER 28, 2007

ORDER

The judgment dated 20.12.2002 in CMA No.18/2001 on the file of the Sub Court, Attingal is under challenge. The petitioner herein is the plaintiff in O.S.No. 194/1995 on the file of the Munsiff's Court, Attingal. The suit was listed for trial on 10.7.2000. Since the plaintiff was absent on that day, the trial court dismissed the suit for default. According to the petitioner/plaintiff he could not appear before the court below on that day since he had to go to Madras along with his son who was undergoing treatment in the Appolo Hospital in Madras and he returned from Madras only on 14.7.2000 and that during his absence on 10.7.2000 the suit was dismissed.

2. The trial court declined to restore the suit for the reason that no document was produced by the petitioner/plaintiff to prove the treatment of his son at the hospital. The petitioner/plaintiff filed appeal CMA No.18/2001 against the order of the trial court dated 27.3.2001. The appellate court also stating the same reason dismissed the appeal. The petitioner, therefore, has approached this court by filing this CRP complaining that the suit was dismissed for default and that he was not in a position to establish his case by adducing evidence. On the facts and circumstances I am of the view that the plaintiff should have been given a chance for contesting the case on merits. I, therefore, allow the CRP,

set aside the impugned orders of the courts below and allow I.A.No.1698/2000 in O.S.No.194/1995 by accepting the reasons stated for his absence on 10.7.2000 on condition that the petitioner/plaintiff shall pay Rs.2000/- as costs to the respondent within one month from today. Since the suit is of the year 1995, I further direct the trial court to dispose of the suit within a period of six months from the date of receipt of a copy of this order. The parties shall appear before the court on 30.10.2007.

**HARUN-UL-RASHID
JUDGE**

mt/-